HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, May 8, 2013
83rd Legislature, Number 69
The House convenes at 10 a.m.
Part One

Sixty-four bills and one joint resolution are on the daily calendar for second-reading consideration today. The bills on the Constitutional Amendments and General State calendars analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

Three postponed bills — HB 194 by Farias et al., HB 613 by Orr and Larson, and HB 416 by Hilderbran — are on the supplemental calendar for second-reading consideration today. The analyses are available on the HRO website at www.hro.house.state.tx.us/BillAnalysis.aspx.

The House will consider a Local, Consent, and Resolutions Calendar and a Congratulatory and Memorial Calendar today.

Bill Callegari
Chairman
83(R) – 69

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Wednesday, May 8, 2013
83rd Legislature, Number 69
Part One

SUBJECT: Constitutional amendment to allow dollar-amount homestead exemption

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Hilderbran, Otto, Bohac, Button, N. Gonzalez, Ritter, Strama

0 nays

2 absent — Eiland, Martinez Fischer

WITNESSES: For — (*Registered, but did not testify:* Hugh Brady, City of Austin; Deece Eckstein, Travis County Commissioners Court; Dick Lavine, Center for Public Priorities; Donald Lee, Texas Conference of Urban Counties; Mark Mendez, Tarrant County Commissioners Court)

Against — (*Registered, but did not testify:* Brent Connett, Texas Conservative Coalition)

BACKGROUND: Texas Constitution, art. 8, sec. 1-b(e) allows the governing body of a political subdivision to exempt up to 20 percent of the market value of a residence homestead. The amount of an exemption authorized in no case may be less than $5,000.

In addition, school districts are required to provide an across-the-board tax exemption of $15,000 on the appraised value of a residence homestead, as well as a $10,000 school property tax exemption for those who are disabled or age 65 or older.

DIGEST: HJR 138 would propose an amendment to allow the governing body of a political subdivision to exempt a flat-dollar-amount of the market value of a person's residence homestead as an alternative to the existing percentage exemption. The amount of the alternative exemption could be no less than $5,000.

The Legislature could not provide formulas to protect a school district against all or part of the revenue loss incurred by the school district that resulted from the school board's adoption of an alternative exemption.

The amendment would take effect on January 1, 2014.

The proposal would be presented to the voters at an election on Tuesday, November 5, 2013. The ballot proposal would read: "The constitutional amendment authorizing the governing body of a political subdivision to adopt a local option residence homestead exemption from ad valorem taxation of a portion, expressed as a dollar amount, of the market value of an individual's residence homestead."

SUPPORTERS SAY:

HJR 138 would provide the constitutional authorization necessary to give governing bodies of local entities (municipalities, counties, hospital districts, community colleges) the option of choosing between a homestead exemption based on a percentage or a dollar-amount. The amendment would increase local control and flexibility to make informed decisions on how to administer the optional residential homestead exemption.

Under the Constitution, local entities may adopt a percent exemption, capped at 20 percent, for residential homesteads. The exemption, if granted, must be no less than $5,000. Many local entities, however, opt against offering this exemption, as it often has a significant fiscal impact that increases each year with rising property values. As a result, in many cases, homeowners receive no homestead exemption from taxing jurisdictions, except the $15,000 exemption school districts are required to provide. Districts also must provide a $10,000 homestead exemption for those who are disabled or 65 or older. Districts are not required to provide another residence homestead exemption, though they also have the option of a percentage exemption up to 20 percent.

Providing the option to choose a flat-dollar-amount or percentage exemption would allow local entities to tailor local tax policies to suit the unique needs of their communities. Allowing this option would allow local entities more flexibility to control the amount of property value subject to taxation. Revenue tied up with a fixed, dollar-amount exemption would increase with the number of residence homesteads, contributing to the steadiness and predictability of tax revenue. In contrast, the revenue lost due to a percent exemption would increase with the overall value of homesteads, magnifying the potential scope of the exemptions' fiscal impact and reducing predictability.

A dollar-amount exemption would be more effective in providing property tax relief for targeted homeowners. Local entities could set these

exemptions to alleviate the tax burden on vulnerable populations.

The flexibility of greater taxing options afforded by the amendment would be naturally constrained by powerful checks in the form of local elections. Governing bodies that adopt tax exemptions are subject to popular elections. These elections provide important checks on any tendency to raise taxes or to disproportionately shift the tax burden from some groups onto others. If citizens are unhappy about changes to a tax exemption, they could make changes through the ballot box.

OPPONENTS SAY:

HJR 138 would sanction local decisions that could lead to shifting the property tax burden from some taxpayers onto others. Providing for a fixed dollar-amount exemption would disproportionately punish those with homes of higher value. For instance, a $500,000 home with a 20 percent exemption would yield a $100,000 homestead exemption. On the other hand, if the local entity adopted a fixed amount, say $50,000, then the homeowner would be subject to a tax increase corresponding to $50,000 of appraised value.

Under the amendment, some homeowners could be completely exempt from paying any tax to certain entities, and this tax burden would be shifted to others who would see a (potentially very significant) tax increase. Moving the tax burden from one class of taxpayers to another creates issues of equity and uniformity of taxation. A simple percentage exemption for all homeowners is the best approach, since all homeowners enjoy an equal share in the benefits of the public services provided through property tax collections.

OTHER OPPONENTS SAY:

Local entities should not be forced to choose between adopting a percent or dollar-amount exemption for residential homesteads. The amendment should make allowances for those jurisdictions that would like use a combination of dollar-amount and percentage exemptions for homeowners.

NOTES:

The Legislative Budget Board (LBB) estimates that the amendment would have no fiscal impact to the state, except $108,921 for the cost of publishing the resolution.

The LBB notes that school districts are unlikely to make the switch from the optional percentage exemption in current law to the new dollar-amount exemption, as they would not be reimbursed for any costs through the

school finance formula. There would be a cost to local taxing units to the extent that the entities implemented provisions in the amendment.

SUBJECT: ERS contributions and benefits

COMMITTEE: Pensions — committee substitute recommended

VOTE: 5 ayes — Callegari, Branch, Frullo, P. King, Stephenson

2 nays — Alonzo, Gutierrez

WITNESSES: For — Maura Powers, AFSCME; Lindsay Vogtsberger, Cerner Corporation; (*Registered, but did not testify:* Doug Ervin, Cerner Corporation; Ann Hettinger)

Against — (*Registered, but did not testify:* Deborah Ingersoll, Texas State Troopers Association)

On — Gary Anderson, Texas Public Employees Association; Ann Bishop, ERS; Elizabeth Blount, Retired State Employees Organization; Shea Guinn, Game Warden Peace Officers Association; Ray Hymel, Texas Public Employees Association; Jimmy Jackson, Department of Public Safety Officers Association; Harry Nanos, Texas Alcoholic Beverage Commission Officers Association; (*Registered, but did not testify:* Mike Ewing, ERS; Christopher Hanson, Pension Review Board)

DIGEST: ***(This analysis reflects the author's intended floor amendments.)***
CSHB 1882, with the proposed floor amendments, would make numerous changes to the Employees Retirement System of Texas (ERS). It would place civilian state employees and law enforcement/corrections officers into separate plans.

The bill would authorize a cost-of-living increase for retirees if certain actuarial conditions were met. It would require a dedicated contribution of .5 percent of payroll from state agencies.

For employees hired after September 1, 2013, the bill would:

- base their retirement annuity on the 60 highest months of compensation, rather than the 48- or 36-month calculations used for current employees, depending on when they were hired;
- set age 62 instead of age 60 as the threshold below which a retiree's

annuity would be subject to a 5 percent reduction per year; and

- increase the normal retirement age for law enforcement or corrections officers from 55 to 57, with 20 years of service.

Contribution rates. Beginning September 1, 2013, civilian employees' contribution rates would increase from 6.5 percent to 7.5 percent of their compensation. Contribution rates for members of the Law Enforcement and Custodial Officers Supplemental Retirement Fund (LECOSRF) would increase from 7 percent to 8 percent.

The bill would decrease from 5 percent to 2 percent the annual interest on money in each member's individual account that is used to compute the amount paid when an employee withdraws accumulated funds in lieu of receiving a retirement annuity. The provisions would apply only to interest accrued after January 1, 2014.

Retiree health care. CSHB 1882 would implement tiered health insurance premium contributions for retirees in the Group Benefits Program (GBP), based on their years of service. Employees with 10 years of contributions to GBP as of September 1, 2014 would be exempted from these provisions.

Beginning September 1, 2014, the state would pay 100 percent of premium costs for employees who retired with 20 years of service, 75 percent for retirees with 15 years of service, and 50 percent for retirees with 10 years of service.

Other provisions. CSHB 1882 would change the calculation of the 90-day period for new employees to join GBP. It would raise from 25 to 26 the age when coverage ended for an unmarried dependent child.

The bill would decrease from 40 to 30 the minimum number of hours per week an employee would have to work in order to be considered a "full-time employee." It would add a definition of eligible dependents to include a child for whom the participant served as managing conservator.

Retirees could opt to receive service credit instead of a lump-sum payment for accrued vacation time and could make changes related to divorce decrees.

ERS would be entitled to obtain criminal history record information on

candidates for appointment or election to the ERS board or a board advisory committee. The information also would be allowed for consultants, contract employees, independent contractors, interns, and volunteers.

The bill would extend liability protection to advisory committee members appointed by the board.

CSHB 1882 would authorize a one-time cost-of-living adjustment of 3 percent or at least $100 for those who had been retired 20 years, based on a finding by the ERS board that, as determined by an actuarial valuation, the amortization period for ERS' unfunded actuarial liabilities does not exceed 30 years by one or more years.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSHB 1882, with the proposed floor amendments, would provide a balanced approach to strengthening the ERS retirement fund that shares responsibility among the state, the employer, and the employee. Over time, it would help get the system closer to actuarial soundness.

The bill would preserve the defined benefit pension plan as an important component of state employees' compensation package. It would recognize the contributions of career employees and make sensible benefit changes for new employees hired after September 1, 2013. It would maintain the "rule of 80" and grandfather all current state employees from being subjected to any of the eligibility changes.

The bill would reward longer term employees with higher health insurance contributions in retirement. While some future retirees with fewer years of service would have to pay more for health insurance, the changes only would apply to members with less than 10 years of covered GBP participation going forward. These changes are not significant enough to prompt a rush to retire.

Interest earnings paid on members' retirement accounts would be more in line with market rates. It does not make sense for the state to pay above-market rates when employees who leave state service withdraw their accumulated funds in lieu of receiving a retirement annuity.

Current retirees would not be affected by any reduction in benefits and

CSHB 1882 would create an opportunity for retiree cost-of-living increases if the fund became more actuarially sound in the future.

For law enforcement officers and prison guards, the bill would provide separate accounting to reflect the true costs of each plan.

OPPONENTS SAY:

CSHB 1882, with the author's planned floor amendments, represents a significant improvement for current state employees than earlier versions. However, it would not adequately address the real problem of chronic state underfunding.

For 18 of the past 20 years, the Legislature has failed to contribute at levels that could have made the fund actuarially sound. While the Senate and House versions of the general appropriations bill would increase contributions for fiscal 2014-15, more is needed.

The increase in employee contributions would be a de facto pay cut that particularly would be felt by the lowest-paid workers.

OTHER OPPONENTS SAY:

CSHB 1882, with the author's planned floor amendments, would represent a failed opportunity to make more significant changes to improve the fund's stability. A prior version of the bill would have lowered the actuarial costs of ERS by $989 million and represented a significant move toward actuarial soundness, according to the Legislative Budget Board's actuarial impact statement. The difficulty in gaining a consensus to implement those changes resulted in a watered-down effort.

SUBJECT: Increasing penalties for illegally passing a stopped school bus

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 8 ayes — Pickett, Fletcher, Dale, Flynn, Kleinschmidt, Lavender, Sheets, Simmons

0 nays

1 absent — Cortez

WITNESSES: For — Jesus Chavez, Round Rock Independent School District

Against — None

On — (*Registered, but did not testify:* Rebecca Rocha, Texas Department of Public Safety)

BACKGROUND: Transportation Code, sec. 545.066, prohibits a driver from passing a stopped school bus loading or unloading children. The penalty for violators is a fine of not less than $200 and not more than $1,000.

DIGEST: HB 1174 would amend Transportation Code, sec. 545.066 and make the penalties for a misdemeanor offense of passing a stopped school bus loading or unloading children not less than $500 or more than $1,250. It would add to the list of penalties for a misdemeanor offense and would create a fine of not less than $1,000 nor more than $2,000 if the person is convicted of a second or subsequent violation within five years of the previous offense.

The bill would take effect September 1, 2013.

SUPPORTERS SAY: Raising the penalty a person would pay for driving past a stopped school bus that was loading or unloading passengers would help protect children and deter reckless driving.

The state's penalties have not been doing enough to help prevent this form of dangerous driving. Last year, 8,669 out of 10,855 Texas school bus

drivers who participated in a one-day survey of driving behavior said they witnessed a driver passing their bus while children were boarding or exiting their bus, according to the National Association of State Directors of Pupil Transportation Services. Too often, these alarming conditions become apparent only when someone is touched by tragedy.

HB 1174 also would add much-needed penalties for a driver who had not learned to obey the law and did not value the safety of children. Current law allows the suspension of a license that does not exceed six months for a second or subsequent offense. The bill would provide for a fine, which would be a more effective way to deal with someone who repeatedly drives past school buses that are clearly marked to prohibit such behavior.

OPPONENTS SAY:

HB 1174 would impose too high a fine on motorists who might not be aware of the change in law. For a fine to be a deterrent, the public must be cognizant of what punishments lay ahead if they proceed to break the law. The bill would not include any public education component about the change in the law and its associated fines.

SUBJECT: State coordination of endangered species conservation

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 7 ayes — Cook, Craddick, Geren, Harless, Huberty, Oliveira, Smithee

0 nays

5 absent — Farrar, Frullo, Hilderbran, Menéndez, Sylvester Turner

1 present, not voting — Giddings

WITNESSES: For — J. Roger Kelley, Continental Resources Inc.; Ben Shepperd, Permian Basin Petroleum Association; Bill Stevens, Texas Alliance of Energy Producers; (*Registered, but did not testify*: Teddy Carter, Texas Independent Producers and Royalty Owners Association; Stan Casey, Concho Resources Inc.; Chris Hosek, Linn Energy; Matthew Thompson, Apache Corp.; Matthew Thompson, Panhandle Producers and Royalty Owners)

Against — Gary Mowad; (*Registered, but did not testify:* Marida Favia del Core Borromeo, Exotic Wildlife Association; Bryan Gentsch, Texas Seed Trade Association; Barbara Harless, No. Tx. Citizens' Lobby; Debbra Hastings, Texas Oil & Gas Association; Billy Howe, Texas Farm Bureau; Marissa Patton, Texas and Southwestern Cattle Raisers Association; Steve Perry, Chevron USA; Jim Reaves, Texas Nursery & Landscape Association; Corinne Smith, North Texas Citizens Lobby; Sara Tays, Exxon Mobil Corp.; Bob Turner, Texas Poultry Federation; Julie Williams, Chevron USA Inc.; Josh Winegarner, Texas Cattle Feeders Association)

On — (*Registered, but did not testify*: Whitney Blanton, Comptroller of Public Accounts; Tricia Davis, Texas Royalty Council; Clayton Wolf Texas Parks and Wildlife Department.)

BACKGROUND: In 2009, the 81st Legislature passed SB 2534, creating the Task Force on Economic Growth and Endangered Species chaired by the comptroller. In addition to the comptroller, the task force is comprised of the executive director of the Parks and Wildlife Department, the executive director of

the Texas Department of Transportation, and the executive director of the State and Soil and Water Conservation Board. State law requires that the task force, among other activities, assess the economic impact of endangered species on the state and assist landowners and local governments address those effects. The task force is chaired by the comptroller.

In 2011, the 82nd Legislature enacted SB 1 in its first called session, amending the Government Code to add Subchapter Q (secs. 403.451-403.555). The subchapter granted the Comptroller of Public Accounts the powers to support habitat protection planning for endangered species.

Under Government Code, sec. 403.452 the comptroller can: develop and coordinate the development of a habitat conservation plan or candidate conservation plan; apply to and hold federal permits issued in connection with habitat plans; enter into implementation agreements with the Department of Interior; establish a habitat protection fund to be held outside the treasury; impose mitigation fees; and implement, monitor, and support the implementation of a habitat conservation plan.

A habitat conservation plan allows for a broad-based plan approved by the U.S. Fish and Wildlife Service that allows incidental "take" of threatened or endangered species. "Take" refers tp the removal of occupied endangered species habitat or species displacement due to development or disruption of habitat areas.

Government Code, sec. 403.451 defines "candidate conservation plan" as a "plan to implement such actions as necessary for the conservation or one or more candidate species or species likely to become a candidate species in the near future." A candidate species is defined as a species identified by the U.S. Department of Interior as appropriate for listing as threatened or endangered.

DIGEST:

CSHB 3509 would amend the Parks and Wildlife Code, sec 83.011 to provide definitions for candidate conservation plan and candidate species.

The bill would grant TPWD the authority to apply for and hold a federal permit in connection with a habitat conservation plan, candidate conservation plan, or similar plan, that is authorized or required by federal law. TPWD also would be authorized to enter into an agreement with the federal government in connection with a habitat conservation plan,

candidate conservation plan, or similar plan.

CSHB 3509 would prohibit other state agencies – unless authorized by TPWD through interagency contract or an institution of higher education – from applying for a federal habitat conservation plan or similar plan permit or entering into an agreement with the federal government in connection with a habitat conservation plan or similar plans.

TPWD habitat conversation plans. Before undertaking the development of a habitat conservation plan or similar activity, TPWD would have to provide notice and solicit comments from members of the Task Force on Economic Growth and Endangered Species, affected landowners, conservation interests, and business interests affected by the activity.

CSHB 3509 would define notice to include publication in the Texas Register, posting on the department's website, announcement of public meetings, written correspondence, or other means likely to ensure notice.

TPWD could create advisory committees that were exempted from the size, composition, or duration requirements of Government Code, ch. 2110 governing advisory committees.

Habitat Protection Research Fund. CSHB 3509 would create the Habitat Protection Research Fund to be held by the comptroller outside the treasury to receive appropriations, grants, and gifts. Money in the fund could be used for grants for endangered species research, employing research personnel, and capital expenditures.

Coordinated state committee. The bill would create the Coordinated State Endangered Species Response Committee to oversee the state's coordinated response to the listing and potential listing of species. The committee would be composed of the attorney general, the commissioner of the Department of Agriculture, the commission of the General Land Office, the chair of the Railroad Commission, the comptroller, the executive director of the Parks and Wildlife Department, and the executive director of the Texas Economic Development and Tourism Office.

The chair of the committee would rotate among the members every two years. The chair would select the location of the meetings and set the agenda. Agency staff of the chair of the response committee would support the committee.

The committee would be required to meet monthly in public-noticed meetings. Information regarding the meetings would have to be be posted on the website maintained by the comptroller and would contain information about the economic impact of the federal action on endangered species. The committee could adopt rules to implement administrative procedures.

Not later than December 1 of each even-number year, the committee would be required to submit a report to the state leadership and appropriate legislative committee chairs. The report would contain the committee's findings and recommendations, suggestions for proposed legislation, a summary of the committee's activities, and administrative recommendations.

CSHB 3509 would provide that the comptroller's ability to enter into an agreement with the U.S. Department of Interior for implementation of a conservation plan would expire on September 1, 2013. The bill would strike language from Government Code, sec. 403.452 to conform with the duties of the comptroller after September 1, 2013 as they related to endangered species. The bill would repeal Government Code, secs. 490E.001, 490E.004(b), 490E.005, and 490E.006.

The bill would provide that the authority granted to TPWD related to a federal habitat permit applied only to a permit issued, an application submitted, or a conservation agreement entered into after the effective date of the bill.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSHB 3509 would significantly enhance the state's ability to address endangered species issues. More than 100 species are expected to be listed as threatened or endangered in the state in the coming decade, and the state must develop a comprehensive ability to deal with the proposed listings.

The Texas Parks and Wildlife Department, as with other similar state wildlife agencies across the country, should be the state agency responsible for applying for and holding habitat conservation plan permits.

CSHB 3509 would increase the coordination of the state's endangered

species response by establishing the Endangered Species Response Committee comprised of statewide office holders, the executive director of TPWD and the executive director of the Texas Economic Development and Tourism Office. The committee's composition would ensure that a diverse array of economic and environmental interests were met.

While the comptroller's current effort to coordinate the state's endangered species response is laudable, it has failed to include the interests of many stakeholders.

The Office of the Comptroller is charged with tax enforcement, maintaining the state treasury, and conducting fiscal forecasts. An agency focused on accounting and state budgeting is ill-equipped to sustain the long-term effort to address endangered species issues. The permitting responsibility for endangered species should be vested in a department filled with experts in wildlife biology and the know-how to hire competent biologists and other professionals to support a prolonged endangered species response. TPWD and the Endangered Species Response Committee, with the participation of the comptroller, would better serve the state needs. The bill would maintain the Task Force on Economic Growth and Endangered Species, and the task force would remain under comptroller's guidance.

Keeping the state's endangered species response at the comptroller's office serves the interest of a narrow group of oil companies and gives little voice to a much larger group of interests that want to participate and contribute in the process.

OPPONENTS SAY:

The comptroller's office has been involved in addressing the economic effects of endangered species regulation since 2009 when the Task Force on Economic Growth and Endangered Species. The office has successfully helped lead the creation of a habitat conservation plan for the dunes sagebrush lizard that encompasses parts of West Texas and New Mexico. With the voluntary plan approved by Texas and New Mexico, the U.S. Fish and Wildlife Service determined in 2012 that the species did not need to be listed under the federal Endangered Species Act. The comptroller's office is best positioned to ensure that the needs of the Texas economy are at the forefront of the state's efforts to minimize the effects of the Endangered Species Act.

The bill would strip the Task Force on Economic Growth and Endangered

Species' ability to work with local communities on endangered species issues. It would remove the comptroller's ability to assist landowners and other persons in the state with identifying, evaluating, and implementing cost-effective ESA strategies; reviewing and providing recommendations to local governments; and creating advisory committees.

OTHER OPPONENTS SAY:

CSHB 3509 should be amended to include the Texas Commission on Environmental Quality (TCEQ) on the Coordinated State Endangered Species Response Committee. Many of the endangered species conflicts the state has had with the federal government have involved aquatic species, or species dependent on freshwater inflows such as whooping cranes and springs-dependent species. Although sometimes overlooked, TCEQ is responsible for issuing federal Clean Water Act, sec. 401 water quality certifications to applicants whose projects may impact water quality. This is a part of a larger wetlands permitting process regulated by the U.S. Army Corps of Engineers. TCEQ is responsible for two of the largest habitat restoration programs in the country — the Galveston Bay National Estuary Program and the Coastal Bend Bays & Estuaries Program. To leave TCEQ off the state's endangered species response committee, given that the agency has vast experience handling endangered species issues and is involved in a lawsuit over them, is a significant oversight.

SUBJECT: Allowing public employees to express breast milk or breast-feed

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Oliveira, Bohac, Orr, E. Rodriguez, Villalba, Walle, Workman

0 nays

WITNESSES: For — Stephanie Diaz, Texas State Employees Union; Krisdee Donmoyer, Central Texas Healthy Mothers and Healthy Babies Coalition; Rebecca Graber; Gail Gresham, Texas Breastfeeding Coalition; Susan Landers; Yvonne Porterfield; Johnny Villarreal, Houston Professional Firefighters Association, Local 341; Paige Williams, Texas Classroom Teachers Association; (*Registered, but did not testify:* Troy Alexander, Texas Medical Association; Laura Blanke, Texas Pediatric Society; Portia Bosse, Texas State Teachers Association; Kathryn Clarkson; Adam Donmoyer; Melissa Gardner, Texans Care for Children; Jerry Gonzalez and Shannon Perez, SEIU; Dwight Harris, Texas American Federation of Teachers; Paul Hastings; David Huber; Rene Lara, Texas AFL-CIO; Shannon Lucas; Heidi Manti; Leigh Melson; Jeremy Newman; Derrick Osobase, Texas State Employees Union; Shannon Perez, SEIU; Carlos Salinas, Alliance for Texas Families; Ben Snodgrass, Texas Home School Coalition; Emily Timm, Workers Defense Project; Buddy Villejo; Trent Williams)

Against — (*Registered, but did not testify:* Brent Connett, Texas Conservative Coalition; Cathy Dewitt, Texas Association of Business)

On — Laura Mueller, Texas Municipal League; (*Registered, but did not testify:* Tracy Erickson, Texas Department of State Health Services; Robert E. Johnson, Jr., City of Houston)

BACKGROUND: The Fair Labor Standards Act, sec. 7 was amended in 2010 to require employers with 50 or more employees to provide a reasonable break time for employees to express breast milk for a year after the child's birth. The employer must provide a place, other than a bathroom, that is shielded from view and free of intrusion. These provisions only apply to hourly employees, not employees who are exempt from FLSA.

DIGEST: CSHB 741 would allow an employee of a public employer to express

breast milk at the employee's workplace. A public employer would be defined as a county, municipality, or other political subdivision of the state including a school district, a board, commission, office, department, or other agency in state government including an institute of higher education.

The public employer would develop a written policy supporting the practice of expressing breast milk and making reasonable accommodations for the needs of the employees who expressed breast milk. The public employer also would allow reasonable amounts of break time for an employee to express breast milk when that employee had a need to do so, and provide a place other than a bathroom that was shielded from view and free from intrusion. A public employer could not suspend or terminate an employee for exercising the right to express breast milk.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

According to physicians, infants who are fed breast milk have greater resistance to disease and infection, fewer gastrointestinal infections, and are less likely to have lower respiratory tract diseases or adult obesity, along with other health benefits. Texas should expand the opportunities women in the workplace have to ensure their children receive breast milk in the beginning stages of their lives, and CSHB 741 would help accomplish this goal.

Women who are breastfeeding must express milk at certain intervals in order to maintain milk production. Some women who cease expressing breast milk develop painful infections.

The bill would guarantee public employees the same right to express breast milk granted to hourly employees by the Fair Labor Standards Act.

CSHB 741 would not present a significant financial burden on the government. The Legislative Budget Board reported no fiscal impact on the state, and the Texas Municipal League claimed that the cost to municipalities would not be significant. The Texas Association of Counties reported that many counties have already implemented policies in line with this bill.

The bill could reduce absenteeism and health care costs by reducing the number of times an employee had to leave work to tend to a sick child, as

feeding a child breast milk instead of formula could reduce childhood illness.

The bill would help keep teachers and other state employees satisfied, increase retention, and reduce rates of turnover. State employees who are mothers would not need to choose between continuing to provide breast milk for their child or keeping their jobs. The bill would provide a way for more women to stay in the workplace and balance the demands of a family. A high rate of women's workforce participation is crucial for the Texas economy.

The committee substitute would be limited to expressing breast milk and would not include breast-feeding, as some employers expressed concerns that some workplaces were not safe environments for young infants. Limiting the bill to expressing breast milk would ensure that the mother could maintain milk production and provide her child with all the healthful benefits of breast milk while maintaining a professional boundary.

The bill would balance carefully the needs of the breastfeeding employees with amenities public employers may feasibly provide to their employees. By requiring that employers spare only a room and some break time, the burden is not great, especially since private employers already need to accommodate hourly employees whose right to express breast milk is already guaranteed by the Fair Labor Standards Act.

OPPONENTS SAY:

The bill would impose a major new regulation on state employers without demonstrating that mothers who wish to express milk cannot currently be accommodated. The bill would create an aggressive new right for public employees and would burden local government with an unfunded mandate. Counties without policies for nursing mothers could see a fiscal impact. Bexar County reported to the LBB that it would have to spend a one-time amount of $448,000.

SUBJECT: Access to criminal history information for intoxication manslaughter

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Carter, Hughes, Leach, Moody, Toth

1 nay — Schaefer

2 present not voting — Burnam, Canales

WITNESSES: For — (*Registered, but did not testify:* Scott Houston, Texas Municipal League; Bill Lewis, Mothers Against Drunk Driving; Kelly Riddle, Freedom of Information Foundation of Texas)

Against — (*Registered, but did not testify:* Kristin Etter, Texas Criminal Defense Lawyers Association)

DIGEST: CSHB 133 would make criminal history record information concerning a person's conviction within the preceding 10-year period for intoxication manslaughter public information that anyone could obtain from the Texas Department of Public Safety (DPS). This information would not include:

- any information regarding the person's social security number, driver's license number, or telephone number; nor
- any information that would identify a victim of the offense.

DPS would be required to implement and maintain a public website to allow any person, free of charge, to search for and receive the information made public by the bill. The website would have to be searchable by zip code, city, county, or the name of the person convicted. The search results would need to include for each person convicted:

- the person's full name and last known address; and
- a recent photograph of the person, if available.

DPS would be required to remove a person's information from the website as soon as practicable after the earliest of:

- the 10th anniversary of the date of the conviction;

- the date on which the conviction was reversed on appeal; or
- the date on which an order of expunction was entered with respect to records and files in the case.

CSHB 133 would require DPS to establish a procedure by which a peace officer or employee of a law enforcement agency could request and receive any criminal history record information concerning the conviction of a person for intoxication manslaughter within the preceding 10-year period. This information would be provided in response to a peace officer providing a driver's license number, personal identification certificate number, or license plate number.

The procedure established by DPS to provide this information would have to allow a peace officer to request it from the location of a motor vehicle stop and receive a response within the duration of a reasonable motor vehicle stop.

DPS would be required to implement the website and new procedures by May 1, 2014.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

CSHB 133 would protect Texans and equip law enforcement with better tools for tracking and interacting with repeat drunk driving offenders. Drinking and driving affects communities and harms families. Deaths resulting from alcohol-related car accidents occur daily in Texas, and the only way to correct this problem is through a concerted statewide effort by all citizens. The bill would be an important step toward making the changes needed to reduce drunk driving and save lives.

The website required by the bill would help raise awareness of deaths caused by drunk driving. The website would only provide information about the most heinous intoxication offense, which is the most important for Texans to easily discover. It would help citizens gather information about who could be trusted to operate a vehicle. The public could use the website to ensure that people with whom they might be considering carpooling or whom they might have considered allowing to drive their children had not been convicted of intoxication manslaughter. The bill would help keep communities and innocent people safe and give them an important tool to keep themselves and loved ones from harm.

Law enforcement officers in the field need better information to enforce the law and protect themselves. An officer who pulls over and approaches an erratic driver should have the opportunity to know whether the driver being approached is a habitual and dangerous drunk driver. Law enforcement officers need as much information as possible to be able to assess and appropriately respond to a situation.

OPPONENTS SAY:

CSHB 133 would open the door to disclosure of crimes that should not be readily available to the public. Experience shows that criminal-information databases, like the website this bill would create and the sex offender registry, tend to expand after they are established. In a few years, this website could grow to include an overly broad group of people, many of whom were not threats to the community. The bill as filed would have included information about a broad range of intoxication offenses on the website. If the website contemplated by the bill were established, it eventually could expand to include all these offenses again.

The bill would not be an effective tool for Texans, and primarily would serve the purpose of public shaming. The criminal justice system exists to penalize people for their crimes, and attaching a digital scarlet letter to people convicted of intoxication manslaughter would be an unnecessary additional punishment that would interfere with their ability to lead normal lives. Stigmatization primarily serves the purpose of excluding the subjects from regular society and forcing them into communities and situations in which they would be more likely to re-offend.

CSHB 133 could lead to overzealous law enforcement and unnecessary escalation of routine traffic stops unrelated to intoxication offenses. A police officer stopping a driver for a broken tail light, speeding, or some other minor traffic violation does not need access to information about that driver’s previous intoxication manslaughter offenses during the traffic stop. Providing this information during such a stop could bias officers and encourage them to treat a minor incident in a more extreme manner than the situation merited. Police have access to criminal history records where and when that access is appropriate. They do not need the information this bill would provide to conduct traffic stops.

SUBJECT: Reimbursing higher education institutions for the Hazlewood Act benefit

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Branch, Patrick, Alonzo, Clardy, Darby, Howard, Martinez, Murphy, Raney

0 nays

WITNESSES: For — None

Against — None

On — Kent Hance, Texas Tech University System; Dan Weaver, Texas Higher Education Coordinating Board; (*Registered, but did not testify:* Denise Trauth, Texas State University)

BACKGROUND: The state's Hazlewood Act is a benefit that provides an exemption on college tuition and most higher education fees to veterans and their children. The state does not reimburse public universities and colleges for the benefit, which serves as a form of financial aid for Texas veterans by allowing them to be exempt from tuition for up to 150 credit hours. The children and spouses of veterans who were killed in action or who are 100 percent disabled from active duty also are eligible for the benefit.

The 81st Legislature in 2009 expanded the benefit through SB 93 by Van de Putte, also known as the Hazlewood Legacy Act, which allows Texas veterans to pass on unused credit hours to their children from age 18 to 25. Only one child at a time can use the benefit.

According to a study from the Legislative Budget Board, providing the benefit cost higher education institutions an estimated $110 million in fiscal 2012, up from about $25 million in fiscal 2009. The cost to state universities and colleges has increased by about 350 percent during this period.

Earlier this legislative session, the House passed HB 1025 by Pitts, a supplemental appropriations bill that would make a one-time appropriation of $30 million to directly reimburse general academic institutions and

health-related institutions, as well as junior colleges and community colleges, that reported costs related to providing an exemption to students using the Hazlewood benefit. The appropriation would be distributed to each participating institution and would be based on the proportionate cost each reported in 2012.

DIGEST:

CSHB 690 would require the Texas Higher Education Coordinating Board to annually reimburse a higher education institution for all or a portion of its cost in providing Hazlewood Act exemptions on tuition and fees to students. If the total costs could not be covered, the coordinating board would be required to provide a reimbursement to participating institutions based on their proportionate costs from providing the exemptions.

The bill would stipulate that the coordinating board could not use more than 1 percent of the money it was appropriated for the reimbursements. It also would require the coordinating board to establish procedures for an institution to request and submit necessary data to the coordinating board for the reimbursement.

Reimbursements for tuition and fees would apply beginning with the 2013 fall semester.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUPPORTERS SAY:

CSHB 690 would help relieve a growing financial burden placed upon the state's higher education institutions through a well-meaning but flawed expansion of the Hazlewood benefit during the 81st Legislature.

Honoring our state's veterans by offering them an exemption on college tuition is an important legacy to preserve but it should not continue as an unfunded mandate, especially after the number of students using the Hazlewood benefit has grown exponentially beyond the best projections of lawmakers and public policy experts.

Some institutions, particularly those located near military installations, have been hit hard by the requirement to waive tuition and fees to students using the benefit. If full reimbursements to institutions were not possible, the bill would provide a flexible and fair way to distribute partial reimbursements to those universities and colleges based on their

proportionate costs from providing the exemptions.

The reimbursements would help institutions avoid the need to compensate for revenue shortfalls through reductions in critical services and the imposition of fees and tuition hikes that affect all students. While more should be done to ensure that the state's public universities and colleges are adequately funded across the board, this bill would bring forward a fair solution to a problem that will only become more serious as a new wave of Texas veterans seek higher education.

OPPONENTS SAY:

The state cannot afford to reimburse universities for providing the Hazlewood Act benefit because doing so would expend revenues that could be used elsewhere. According to the Legislative Budget Board, reimbursing 100 percent of the cost of the exemptions to higher education institutions through fiscal 2014-15 would cost the state about $364 million. While it is unlikely the Legislature would appropriate funding for this purpose at that level, even a fraction of the amount necessary to reimburse colleges and universities would cost tens or even hundreds of millions of dollars. These revenues are desperately needed to restore funding for other state priorities, starting with public education and social services that were cut drastically in 2011.

NOTES:

According to the fiscal note, full implementation of the Hazlewood reimbursements requested by higher education institutions would result in a negative impact to general revenue related funds of about $364 million in fiscal 2014-15. The estimated cost could be lower depending on the actual level of reimbursement, if any.

SUBJECT: Expunction of certain nonviolent offenses

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Herrero, Canales, Hughes, Leach, Schaefer, Toth

1 nay — Carter

1 absent — Burnam

1 present not voting — Moody

WITNESSES: For — Caitlin Dunklee, Texas Criminal Justice Coalition; David Gonzalez, Texas Criminal Defense Lawyers Association; Marc Levin, Texas Public Policy Foundation; Arnold Patrick, Hidalgo County Adult Probation; (*Registered, but did not testify:* Kristen Etter, Texas Criminal Defense Lawyers Association; Sandra Martinez, Centex Family Solutions and Counseling; Derek Muller; Tiffany Muller; Joe Ptak, Texans Smart on Crime; Gabriela Rosas; Kandice Sanaie, Texas Association of Business; Ana Yanez Correa, Texas Criminal Justice Coalition)

Against — John Fleming, Texas Mortgage Bankers Association; Clifford Herberg, Bexar County Criminal District Attorney's Office; (*Registered, but did not testify:* Brian Eppes, Tarrant County District Attorney's Office; Kelly Riddle, Freedom of Information Foundation of Texas, Texas Association of Licensed Investigators; Justin Wood, Harris County District Attorney's Office)

On — John Heasley, Texas Bankers Association; (*Registered, but did not testify:* Skylor Hearn and Angie Kendall, Texas Department of Public Safety)

DIGEST: CSHB 1344 would entitle a person who had been placed under arrest for a nonviolent offense to an expunction of the records and files related to the arrest if:

- the person had been placed on deferred adjudication community supervision for the offense and received a discharge and dismissal in the case;

- the person had not been arrested for a Class A or Class B misdemeanor or a felony committed after the date of the offense for which they were placed on community supervision; and
- at least five years (for a misdemeanor) or 10 years (for a felony) had passed since the person received a discharge or dismissal.

The person would be required to submit an ex parte petition for expunction to the court that granted the deferred adjudication. The petition would have to be verified and to contain the information required for other petitions for expunction in addition to a statement that the person had not been arrested for a Class A or Class B misdemeanor or a felony committed after the date of the offense for which the person was placed on community supervision.

If the court found that the person was entitled to expunction, they would be required to enter an order directing expunction consistent with other orders directing expunction.

The bill would correct references to expunctions in the Government Code to include the provisions under the bill.

The bill would take effect September 1, 2013.

SUPPORTERS SAY:

HB 1344 would solve problems with the way deferred adjudication is handled. Defendants often choose to take deferred adjudication because it seems like an attractive alternative but realize too late the unintended negative consequences and effects of that option. After completed deferred adjudication, many defendants encounter the same problems they were seeking to avoid, such as barriers to obtaining employment and housing because the deferred adjudication remains on their criminal record. By allowing expunction after a certain period of time, HB 1344 would help return to the original intent of deferred adjudication.

The bill would provide the most appropriate measure to those who were affected by the problems with deferred adjudication. Expunction allows the slate to be wiped clean and would be the best way to free the person from the albatross of a criminal record. Concerns about people with expunged records would be addressed by the mandatory time period. The risk of recidivism drops drastically after three years and a person who committed the person's last offense seven or more years ago is no more likely to commit a crime than the average member of society. By

establishing a five-year waiting period for misdemeanors and 10-year waiting period for felonies, the bill would ensure that those having their records expunged would not be at risk of reoffending.

Concerns about criminal background checks by financial institutions were addressed by the committee substitute, which would add the 10-year waiting period for felony offenses. At that point the likelihood of the person committing a crime would be no greater than any other person, so a criminal background check would not be dispositive and would only serve to create unnecessary barriers to employment.

OPPONENTS SAY:

The bill would take the wrong measures to correct problems with deferred adjudication and orders of non-disclosure. Orders of non-disclosure are available to people who have undergone deferred adjudication. If deferred adjudication is becoming a less attractive option through the fault of non-disclosure orders, then that problem should be addressed. Introducing a new, extreme measure to solve problems with the current state of deferred adjudication would be the wrong way to deal with the problem.

HB 1344 would inappropriately allow people who have pled guilty to have their crimes expunged. Expunction has never been available for a person who pled guilty to a crime higher than a class C misdemeanor and the situation created by this bill would be exceptional in the criminal justice system. Expunction is an extreme measure that destroys all records related to a crime and removes references to that crime from all records. A defendant who has their crime expunged is even able to swear under oath that the crime never occurred. This would be particularly problematic when that person re-offended and had to be treated by the court as a first-time offender. This should be allowed only in the most important circumstances and the bar for allowing expunction should remain high.

HB 1344 would create a dilemma for those in the financial industries who are required by federal law to perform background checks and may not hire or license a person who has been convicted of certain crimes within the last seven years. By completely erasing the criminal record of people who may have committed felonies, the bill would create a conflict with federal law and create a problem for industries that need the information this bill would allow to be destroyed.

The bill would not specify a successful completion of deferred adjudication and could be applied to a person whose deferred adjudication

was terminated unsuccessfully. People who did not complete the terms of their deferred adjudication to the full satisfaction of the court should not have the option to expunge their criminal records.

SUBJECT: Changing deadlines for expert reports in health care liability claims

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Lewis, Farrar, Farney, Hernandez Luna, Hunter, K. King, Raymond, S. Thompson

0 nays

1 absent — Gooden

WITNESSES: For — George Christian, Texas Civil Justice League; Jay Harvey, Texas Trial Lawyers Association; Mike Hull, Texans for Lawsuit Reform and Texas Alliance for Patient Access; (*Registered, but did not testify*: Charles Bailey, Texas Hospital Association; Dan Finch, Texas Medical Association; Dan Worthington, Texas Association of Defense Counsel)

Against — None

BACKGROUND: Civil Practice and Remedies Code, 74.351(a), requires a claimant in a health-care liability case to serve defendant physicians and health-care providers with copies of expert reports not later than 120 days after the original petition is filed. It requires defendants to object to the expert reports within 21 days after the report is served.

DIGEST: CSHB 2843 would require a claimant to serve a defendant physician or health-care provider with copies of expert reports not later than 120 days after the defendant's answer was filed. It would require the defendant to file an objection to an expert report by the later of the 21st day after the report was served or the 21st day after the defendant's answer was filed.

The bill would take effect September 1, 2013, and would apply to actions commenced on or after September 1, 2013.

SUBJECT: Suits for default on a student loan administered by the THECB

COMMITTEE: Government Efficiency and Reform — committee substitute recommended

VOTE: 7 ayes — Harper-Brown, Perry, Capriglione, Stephenson, Taylor, Scott Turner, Vo

0 nays

WITNESSES: For — None

Against — None

On — Amy Harrison (TABC); (*Registered, but did not testify:* John Adams, Office of the Attorney General; Bill Franz and Dan Weaver, Texas Higher Education Coordinating Board)

DIGEST: HB 3198 would amend the default collection statutes on student loans issued by the Texas Higher Education Coordinating Board. The bill would grant the attorney general discretion to file collection lawsuits, including suits against the cosigners and guarantors of defaulted student loans. It also would establish exclusive jurisdiction for these lawsuits in Travis County.

The bill would take effect September 1, 2013 and would only affect default student loan collection lawsuits by the attorney general that were filed on or after that date.

SUPPORTERS SAY: HB 3198 would increase the efficiency of the attorney general's efforts to collect defaulted student loans that were issued by the coordinating board.

It is important to grant the attorney general the discretion to select the cases on which it is practical to file a collection suit. Because it costs a least $1,000 to pay for attorney time and basic court fees, the attorney general should not have to file suit on cases with low balances due. The attorney general should not have to file cases when the office cannot locate the debtor, and it is simply not practical to file suits against deployed military. Discretion would allow the attorney general to file

lawsuits when it made sense to do so.

By allowing the attorney general to sue the cosigners and guarantors of these loans, the state would collect more the outstanding debt. There is about $110 million of outstanding student loan debt that the attorney general is attempting to collect. Currently, about one-third of these cases have cosigners on the loans.

By creating exclusive jurisdiction for these cases in Travis County, the bill would allow the local judges to develop expertise in these matters, while also saving the attorney general substantial travel expenses. Former students would not be prejudiced by this change because it would not be difficult for geographically remote former students to attend. Travis County courts allow former students to attend these hearings telephonically, if they choose. Further these students may always request alternate dates and times for these hearings.

Forcing the state to file a lawsuit is expensive for taxpayers, and HB 3198's efficiency improvements would help to contain that cost. The coordinating board and the attorney general only file collection lawsuits as a last resort. The coordinating board goes through many, repeated notifications to former students offering deferment, postponement, forbearance, and payment plans to those who are having trouble making payments. The bill would make the final collection action, which is forced upon the state by former students, more affordable for taxpayers to fund.

OPPONENTS SAY:

The bill would inconvenience students at debt collection hearings by placing exclusive jurisdiction for these cases in Travis County. Students in remote parts of the state would could face a travel burden when forced to defend themselves against charges of default by the state.

SUBJECT: Flat-dollar-amount exemption alternative for residence homesteads

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Hilderbran, Otto, Bohac, Button, N. Gonzalez, Ritter, Strama

0 nays

2 absent — Eiland, Martinez Fischer

WITNESSES: For — Deece Eckstein, Travis County Commissioners Court; Dick Lavine, Center for Public Priorities; (*Registered, but did not testify:* Hugh Brady, City of Austin; Donald Lee, Texas Conference of Urban Counties; Mark Mendez, Tarrant County Commissioners Court)

Against — (*Registered, but did not testify:* Brent Connett, Texas Conservative Coalition)

BACKGROUND: Tax Code, sec. 11.13(n) entitles individuals to an exemption on the appraised value of a residence homestead. Regardless of the percentage of the exemption, an owner is entitled to a minimum exemption of $5,000. The percentage adopted by the taxing unit may not exceed 20 percent.

In addition, school districts are required to provide an across-the-board tax exemption of $15,000 on the appraised value of a residence homestead, as well as a $10,000 school property tax exemption for those who are disabled or age 65 or older.

DIGEST: HB 3348 would amend Tax Code, sec. 11.13(n) to allow the governing body of a taxing unit to adopt an exemption from taxation for a residence homestead that was either a percentage of the appraised value or a dollar amount of appraised value, but not both. The exemption would have to be adopted by the governing body before July 1 of the tax year in which the exemption applied. A dollar-amount exemption could be no less than $5,000.

The bill would take effect January 1, 2014, but only upon the enactment of the corresponding constitutional amendment, HJR 138 by E. Rodriguez. Otherwise, the bill would have no effect.

SUPPORTERS SAY:

HB 3348 would provide the statutory authorization necessary to give governing bodies of local entities (municipalities, counties, hospital districts, community colleges) the option of choosing between a homestead exemption based on a percentage or a dollar-amount. The bill would increase local control and flexibility to make informed decisions on how to administer the optional residential homestead exemption.

Under current law, local entities may adopt a percent exemption, capped at 20 percent, for residential homesteads. The exemption, if granted, must be no less than $5,000. Many local entities, however, opt against offering this exemption, as it often has a significant fiscal impact that increases each year with rising property values. As a result, many homeowners receive no homestead exemption from taxing jurisdictions, except the one that state law requires. School districts are mandated to provide a $15,000 across-the-board homestead exemption, plus a $10,000 exemption to homeowners who are disabled or 65 or older. On top of that, school districts have the option of providing a percentage exemption up to 20 percent.

Providing the option to choose a dollar-amount or percentage exemption would allow local entities to tailor local tax policies to suit the unique needs of their communities. Allowing this option would allow local entities more flexibility to control the amount of property value subject to taxation. Revenue tied up with a fixed, dollar-amount exemption would increase with the number of residence homesteads, contributing to the steadiness and predictability of tax revenue. In contrast, the revenue lost due to a percent exemption would increases with the overall value of homesteads, magnifying the potential scope of the exemptions' fiscal impact and reducing predictability.

A dollar-amount exemption would be more effective in providing property tax relief for targeted homeowners. Local entities could set these exemptions to alleviate the tax burden on vulnerable populations.

The flexibility of greater taxing options afforded by the bill would be naturally constrained by powerful checks in the form of local elections. Governing bodies that adopt tax exemptions are subject to popular elections. These elections provide important checks on any tendency to raise taxes or to disproportionately shift the tax burden from some groups onto others. If citizens are unhappy about changes to a tax exemption, they

can vote for change at the ballot box.

OPPONENTS SAY:

HB 3348 would sanction local decisions that could lead to shifting the property tax burden from some taxpayers onto others. Providing for a fixed dollar-amount exemption would disproportionately punish those with homes of higher value. For instance, a $500,000 home with a 20 percent exemption would yield a $100,000 homestead exemption. On the other hand, if the local entity adopted a fixed amount, say $50,000, then the homeowner would be subject to a tax increase corresponding to $50,000 of appraised value.

Under the bill, some homeowners could be completely exempt from paying any tax to certain entities, and this tax burden would be shifted to others who would see a (potentially very significant) tax increase. Moving the tax burden from one class of taxpayers to another creates issues of equity and uniformity of taxation. A simple percentage exemption for all homeowners is the best approach, since all homeowners enjoy an equal share in the benefits of the public services provided through property tax collections.

OTHER OPPONENTS SAY:

Local entities should not be forced to choose between adopting a percent or dollar-amount exemption for residential homesteads. The bill should make allowances for those jurisdictions who would like use a combination of dollar-amount and percentage exemptions for homeowners.

SUBJECT: Property tax exemption for the surviving spouse of a disabled person

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — Hilderbran, Otto, Bohac, Button, Eiland, N. Gonzalez, Ritter, Strama

0 nays

1 absent — Martinez Fischer

WITNESSES: For — Michael Hand, Wise County Appraisal District; (*Registered, but did not testify*: Brent Connett, Texas Conservative Coalition; Marya Crigler, Texas Association of Appraisal Districts Legislative Committee, Travis Central Appraisal District; Windy Nash, Texas Association of Appraisal Districts and Dallas Central Appraisal District; Jim Robinson, Texas Association of Appraisal Districts, Legislative Committee; Brent South, Hunt County Appraisal District, Texas Association of Appraisal Districts)

Against — (*Registered, but did not testify*: Rodrigo Carreon)

On — Debbie Cartwright, Office of Comptroller of Public Accounts

BACKGROUND: Texas Constitution, Art. 8, sec. 1-b(d), provides for a residence homestead exemption granted to a person who receives the exemption by virtue of being at least 65 years old or disabled. The total amount of property taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or his or her spouse.

Tax Code, sec. 11.13(c) provides an additional $10,000 school district property tax exemption for an adult who is disabled or is age 65 or older.

Tax Code, sec. 11.26(i) entitles the surviving spouse of a person who is age 65 or older to continue to receive the exemption under sec. 11.13(c) if the spouse is age 55 or older and continues to live in the homestead.

DIGEST: HB 875 would amend Tax Code, sec. 11.26(i) to entitle the surviving

spouse of a person who received the exemption under sec. 11.13(c) to continue receiving it if the surviving spouse was age 55 or older and continued to live in the homestead, regardless of whether the deceased spouse originally received the exemption due to age or disability.

The bill would take effect January 1, 2014, contingent on voter approval of the constitutional amendment proposed by HJR 72 by P. King. It would apply only to taxes imposed for tax years beginning on or after that date. If voters did not approve HJR 72, HB 875 would have no effect.

SUPPORTERS SAY:

HB 875, in conjunction with voter approval of HJR 72, would level the playing field for the surviving spouses of those who received the exemption under sec. 11.13(c) due to disability. Under current law, the exemption continues only for the surviving spouse of a person who originally qualified for the exemption due to age. Surviving spouses of those who qualified for the exemption due to disability are equally deserving, and HB 875, in conjunction with HJR 72, would see to it that their property tax bills did not rise upon the death of their disabled spouses.

OPPONENTS SAY:

HB 875 would further erode funding to school districts, which rely on local property tax revenues, at a time when Texas public schools continue to be critically underfunded. It also would continue the unhealthy precedent of singling out a particular group for a tax exemption, which raises issues of uniformity in taxation and fairness, no matter how deserving the group in question.

NOTES:

HJR 72, proposing the constitutional amendment to accompany HB 875, was sent to House Calendars on May 2. HJR 72 has no Senate companion.

SUBJECT: Exempting dedicated cemetery property from drainage fees or charges

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — Ritter, Ashby, D. Bonnen, Callegari, T. King, Larson, D. Miller

2 nays — Johnson, Lucio

2 absent — Keffer, Martinez Fischer

WITNESSES: For — Richard Ambrus, Glenwood Cemetery Houston Texas; Arlie Davenport, Texas Cemetery Association; (*Registered, but did not testify:* Rick Gaines, Oak Grove Memorial Gardens; Jim Kennerly, Texas Cemetery Association*)*

Against — Heather Mahurin, Texas Municipal League; Errick Thompson, The City of Dallas; *(Registered, but did not testify:* Victoria Li, City of Austin*)*

On — *(Registered, but did not testify:* Justin Taack, Texas Commission on Environmental Quality)

BACKGROUND: Federal storm water requirements under the Clean Water Act requires local governments to maintain infrastructure to ensure that storm water drainage flowing back into a public water source is free from pollutants. Local governments have the option to assess the fee by ordinance. Those that choose not to assess a specific fee typically cover the costs of the infrastructure in their general operating budgets.

The Health and Safety Code provides that all property of a dedicated cemetery, including a road, alley, or walk in the cemetery is exempt from public improvements assessments, fees, and public taxation.

DIGEST: CSHB 1168 would add drainage fees or charges to the exemptions to which all property of a dedicated cemetery, including a road, alley, or walk in the cemetery, was exempt.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take

effect September 1, 2013.

SUPPORTERS SAY:

Cemeteries have, for decades, been considered a special form of property providing a public or civic service and are therefore exempt from public improvement assessments, fees, and public taxation. A drainage fee or a drainage charge is a "fee," and as a fee it is unlawful for it to be levied against property dedicated to cemetery purposes. While the statutory restriction is clear and was intended to include drainage fees, municipalities have been assessing drainage charges and fees to cemeteries. This bill would clarify current statute by specifically exempting cemeteries from drainage fees or charges.

OPPONENTS SAY:

Drainage fees pay for the cost of maintaining the federally required storm water drainage infrastructure used to prevent flooding and protect public water sources from pollution. While it is appropriate to exempt cemeteries from other public improvement assessments and taxes, such as costs associated with roads, cemeteries should not be exempt from drainage infrastructure fees because they contribute to storm water run-off. Exempting cemeteries from a drainage fee would unfairly shift the cost of the burden onto others, adding to the inequity of the way the cost is apportioned.

SUBJECT: Applying Texas law to Internet contracts

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Oliveira, Orr, E. Rodriguez, Villalba, Walle, Workman

0 nays

1 absent — Bohac

WITNESSES: None

BACKGROUND: Business and Commerce Code, sec. 1.301 allows two parties to a contract to agree that Texas law or another state's law governs their rights or duties. Ch. 273 requires that a provision in a contract which may be subject to another state's courts, laws, or arbitration be set in boldface or otherwise emphasized in the contract.

DIGEST: HB 3576 would require an Internet contract between one in-state party – here defined as a person with a primary place of business in Texas – and another party to be governed by Texas law, as long as the other party received a notice that Texas law governed the contract and assented. Business and Commerce Code, sec. 1.301 and ch. 273 would not apply to these contracts.

The bill would take effect September 1, 2013.

SUBJECT: Motor vehicle registration requirements for active duty military personnel

COMMITTEE: Transportation — favorable, without amendment

VOTE: 10 ayes — Phillips, Martinez, Burkett, Y. Davis, Fletcher, Guerra, Harper-Brown, Lavender, McClendon, Pickett

0 nays

1 absent — Riddle

WITNESSES: For — None

Against — None

On — Randy Elliston, Texas Department of Motor Vehicles

BACKGROUND: Transportation Code, sec. 502.090 governs the effect of certain military service on the motor vehicle registration requirement. This section applies to vehicles owned by Texas residents on active duty in the U.S. armed forces, who are stationed in or have been assigned to another nation under military orders, and who hold a vehicle registration or license that is issued under a branch of the U.S. armed forces or the nation where the person is stationed or assigned.

For these vehicles, the registration or license issued by the armed forces or host nation remains valid for up to 90 days after the vehicle returns to the state and the regular 30-day limit under Transportation Code, sec. 502.040 does not apply for registering a vehicle after purchasing a vehicle or becoming a state resident.

Transportation Code, sec. 502.040(a) requires the owner of a motor vehicle, trailer, or semitrailer to apply for the registration of the vehicle within 30 days of purchase or becoming a state resident, each registration year in which the vehicle is or was to be used on a public highway, and for the remaining portion of the registration year if the vehicle is unregistered for a registration year that has begun.

Transportation Code, sec. 502.091, allows vehicles with current

registration in another state to be exempt from payment of registration fees in Texas if the other state grants reciprocal exemptions to Texas residents.

DIGEST:

HB 3379 would specify that the registration renewal provisions and the 30-day requirement for registering a motor vehicle after becoming a resident of the state or purchasing a vehicle under sec. 502.040(a) of Transportation Code did not apply to a person who:

- was a Texas resident;
- was on active duty in the U.S. armed forces; and
- was stationed in or assigned to another state or nation under military orders on the date the person's registration renewal became due.

A vehicle that was stored or parked in a lawful manner on private property and was temporarily exempt from registration under the provisions of HB 3379 would not be considered a public nuisance or a junked or abandoned vehicle under Transportation Code, sec. 683.074 and sec. 683.0765.

SUPPORTERS SAY:

HB 3379 would help take the pressure off active duty military while they focused on their service outside the state. The bill would particularly help resolve issues with vehicles left in the state by active duty members of the U.S. armed forces while they were stationed in another state or country on the date their registration renewal became due. The bill would make it easier for military personnel to renew their vehicle registration when they returned from service, rather than having to take their focus off their service to handle registration renewal while on duty.

The bill would ensure that vehicles owned by active military personnel that were stored and parked on private property in a lawful manner would not be declared abandoned or junked in their absence.

OPPONENTS SAY:

This bill is unnecessary. Current law already makes it easy for active military personnel to register in the state by providing a 30-day registration grace period for all new Texans and a 90-day registration grace period for registration renewal and new registration for active military personnel who return to the state with a valid registration or license issued by the armed forces or their host nation. Active duty military personnel serving outside the state do not have to register their vehicles in Texas if their registration is already current in another state.

SUBJECT: Penalty for the offense of reckless driving

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Pickett, Fletcher, Cortez, Dale, Flynn, Kleinschmidt, Lavender, Sheets, Simmons

0 nays

WITNESSES: For — Teresa Clingman and Ralph Petty, Midland District Attorney's Office

Against — None

BACKGROUND: Transportation Code, sec. 545.401, makes it an offense for a person to drive a vehicle in willful or wanton disregard for the safety of person or property. The offense is a misdemeanor punishable by a fine not to exceed $200, confinement in county jail for not more than 30 days, or both.

DIGEST: CSHB 1216 would make reckless driving a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000). It also would allow a trial court to suspend the driver's license of a person convicted of reckless driving for a period ranging from 30 days to 180 days. A court also could require that a person convicted of reckless driving complete a driving safety course as a condition for reinstatement of a suspended driver's license.

If a judge placed a person convicted of reckless driving on community supervision, he or she could require that the person complete a driving safety course.

A person who would be subject to prosecution under both this bill and other law could be prosecuted under either or both.

The bill would take effect September 1, 2013, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

CSHB 1216 would clean up the reckless driving statute by enhancing it to a class B misdemeanor. It also would grant judges more flexibility in how they address reckless driving by allowing them to suspend the driver's license of offenders and to require driving safety courses before reinstating a license.

These alternative treatments proposed in the bill are necessary because county jails are too often full, and persons convicted of reckless driving are not serving out their sentences. Suspending licenses and requiring driver's safety courses would be more appropriate treatments that would better address the crime and prevent it from occurring again in the future. In addition, these approaches would save taxpayers the cost of incarcerating many reckless driving offenders.

CSHB 1216 would give judges the option of license suspension. This would not be the best approach in all cases, and judges would retain discretion to impose it where appropriate.

In addition, a person with a suspended license still would be in the community, which would allow them to continue working and interacting with their families.

OPPONENTS SAY:

Driver's license suspension is a not a cure-all criminal sanction. It affects the families and dependents of the offender. Texas has a car culture, and most parts of the state are poorly served by public transit, which makes it difficult for people who cannot legally drive to get to work and deliver children to school. While incarceration provides the same difficulties, at least that sanction is for a finite, definite period. HB 1216 would place no limit on how long a license could be suspended, which would place affected people in transportation limbo.